

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF WISCONSIN

3 * * * * *
4 ESTATE OF MICHAEL EDWARD BELL, by Special
Administrator Michael Martin Bell, KIM MARIE
5 BELL, MICHAEL MARTIN BELL, and SHANTAE BELL,
6 Plaintiffs,

7 vs. Case No. 05-C-1176
8 OFFICER ERICH R. STRAUSBAUGH, OFFICER ERICH S.
WEIDNER, LIEUTENANT DAVID H. KRUEGER, OFFICER
9 ALBERT B. GONZALES, KENOSHA POLICE DEPARTMENT,
CITY OF KENOSHA,

10 Defendants.
11

12 * * * * *
13

14 VIDEOTAPED DEPOSITION OF P. DOUGLAS KELLEY, M.D.

15 TAKEN AT: Doherty Law Offices, SC
LOCATED AT: 1725 East Washington Street
West Bend, WI

16 May 21, 2007
17 9:08 a.m. to 10:19 a.m.
18 REPORTED BY ANITA K. FOSS
REGISTERED PROFESSIONAL REPORTER

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A P P E A R A N C E S

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Appearing on behalf of the Defendants.

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Mr. Reak.	55
Mr. Dunphy.	60

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(Original Exhibits 63 through 66 and 68 through 81 attached to original transcript. Copies provided to all counsel. Original Exhibit 67 retained by Mr. Dunphy.)		

R E Q U E S T S

(There were no requests made.)

1 medical examiner as well.

2 Q If you turn to the page labeled Autopsy
3 Findings, Roman numeral I reads, "Contact
4 gunshot wound to the head." First of all, did
5 I read that correctly?

6 A Yes, that's correct.

7 Q What is the significance of the use of the word
8 "contact" in describing this gunshot wound?

9 A Using the term "contact" indicates that the
10 muzzle of the gun was in close proximity to the
11 skin. Basically, a contact wound typically
12 will leave an abrasion or a contusion, in other
13 words, a scrape or a bruise, to the surface of
14 the skin surrounding the bullet wound itself,
15 which is characteristic of the muzzle of the
16 gun. In addition, you typically see some soot
17 because -- not just the bullet, soot and
18 unburned gunpowder also come out the end of the
19 barrel of the gun when it's discharged.

20 And that soot can be seen to the edges of
21 the wound and within the wound, to the soft
22 tissues underlying the surface of the skin. So
23 these are some of the characteristics that are
24 typically seen with a contact wound to the head
25 and which I saw in this particular case.

1 That's why I called it a contact wound.

2 Q I'd like to get to that in just a moment, but
3 before we do, you also rendered a finding here,
4 Roman numeral IA, entitled Entrance Wound
5 "right side of head." First of all, did I read
6 that correctly?

7 A Correct.

8 Q Is it typical for you, during the course of
9 your autopsy involving a gunshot wound, to try
10 and determine where the bullet entered the
11 body?

12 A Yes.

13 Q Are there certain specific characteristics that
14 help you to identify to a reasonable degree of
15 certainty in your profession where the entrance
16 wound is?

17 A Yes.

18 Q Roman numeral IB you refer to "Exit wound, left
19 side of head." Did I read that correctly?

20 A Correct.

21 Q Again, are there certain characteristics that
22 you've learned to identify in your professional
23 opinion that help you determine where the exit
24 wound is?

25 A Yes.

1 proper orientation for both of these.

2 Q Thank you. Now would you please identify the
3 certain characteristics that are shown in
4 Exhibit 74?

5 A Well, to the surface of the bone what you're
6 seeing here is a fairly good size perforation.
7 You can see that the fractures that have
8 extended outward have actually left bone
9 fragments absent to the back of this
10 perforation. But you can clearly see the
11 remainder. You can see 75 percent of the hole.
12 And you can notice that the edges of that hole
13 are relatively sharp.

14 The other thing that you notice from this
15 is some soot deposition here, and across here,
16 to the surface of the skull.

17 Q What's the significance of the shape of the
18 edge that you just commented on?

19 A Well, I wouldn't place a whole lot of
20 significance on the edge itself, on the shape
21 of the edge, more to the significance of the
22 fact that it's a sharp edge, it's not beveled.
23 And I'll explain that in just a moment, but --

24 Q Okay.

25 A The significance in terms of a contact wound is

1 the sharpness of that edge. The significance
2 of the soot, of course, is as I explained a
3 moment ago, which is when you fire a gun, the
4 bullet comes out, soot comes out, smoke, if you
5 will, unburned gunpowder particles as well as
6 burning gunpowder particles, and then a lot of
7 gas. And so a contact wound -- one of the
8 reasons why a contact wound is often a
9 destructive wound is because of that gas, by
10 the way.

11 When that gas -- well, I'm going to come
12 back to that, because we're going to look at
13 the surface of the skin. But for now, the soot
14 that comes out with that gas, and everything
15 else, will actually adhere to the surface of
16 the skin and to the soft tissues inside the
17 wound, including the surface of the skull
18 surrounding the wound. And so that's what
19 you're seeing right here.

20 Now, this other photograph I've actually
21 removed the piece of bone so that you could see
22 the inner surface of the skull. So this is the
23 inner surface of the skull here. And what I
24 want to show you is the fact that on the --
25 there's beveling to this area of the skull.

1 Q Again, you're referring to Exhibit 74?

2 A I'm referring to 74 at this time. So what
3 you're seeing is, is that the outer surface has
4 a nice, sharp edge; the inner surface seems to
5 have a step-off, or a beveled edge. And you
6 can see a little bit of soot here along that
7 edge as well.

8 Q What's the significance of a beveling?

9 A Okay. Beveling is a concept that we use to
10 help identify entrances and exits, specifically
11 in head wounds.

12 Q Now you've now shown -- brought up to the
13 camera Exhibit No. 76.

14 A 76.

15 Q Please explain how that helps with the beveling
16 description.

17 A The skull is a plate of bone, and the plate of
18 bone basically -- if we look at this, this is a
19 depiction of the skull, and this is a depiction
20 of a bullet. When the bullet hits the skull,
21 the energy is transferred to the skull and it
22 breaks the skull. It creates a perforation on
23 the outside, or a hole, and it creates a
24 perforation, or a hole, on the inside.

25 But the dispersal of that energy causes a

1 difference in the hole to the outside and the
2 inside of the skull. So on the outside of the
3 skull, what you see is a hole, like this right
4 here, that I've depicted.

5 Q You're showing now, there's one right in the
6 middle of the exhibit page and there's an arrow
7 pointing to it; correct?

8 A Correct. It's just a circle with the word
9 "hole" in it, and that just depicts sharp edges
10 that are seen on the outer table or -- well,
11 no, let me rephrase that -- on the entrance
12 point of the bullet. So as the bullet passes
13 through, the exit point through the skull
14 surface is going to look differently. It'll
15 have a hole, but the outer surface will be
16 bigger, and so you'll have this beveling.
17 It'll look more like a crater than just a hole.
18 So that's the difference.

19 The sharp edges are typical of the entry
20 point through the skull, the beveled surfaces
21 are typical of the exit surfaces of the hole.
22 Now, on the bottom of this, what I've shown you
23 is that you're going to have two of these in a
24 gunshot wound that perforates the skull. So
25 you're going to go through two sides of the

1 skull. And if this is the concavity of the
2 skull --

3 Q Let me interrupt you for just a second. Just
4 for purposes of the record, you're still
5 looking at Exhibit 76 and you're referring to
6 the diagram on the bottom half of that exhibit;
7 correct?

8 A That's correct. And what I have here is I have
9 two lines drawn in parallel that form an
10 incomplete circle, if you will. And those are
11 depicting the skull's surface -- the skull
12 itself. So this is the thickness of the skull.
13 And what I've done is I've put -- there's a
14 hole in both sides of it. So this is depicting
15 a bullet that's passing through both sides of
16 the skull. The inside here is the intracranial
17 cavity, and that's where the brain would be.

18 So over here on my right side, the left
19 side of the paper, this depicts the entrance
20 wound. So on the entrance wound, as it enters
21 the skull for the first time, you have a round
22 hole on the outer surface of the skull, or in
23 other words, the edges are sharper, and on the
24 inner surface it's beveled.

25 Now, it passes through the brain, and as

1 it exits the skull, on the inner surface of the
2 skull, at the point that it's leaving the head,
3 you're going to have sharp edges. But it'll be
4 the outer surface of the skull that will be
5 beveled. So does that make sense?

6 Anytime it makes contact with the bone of
7 the skull, the place it first made contact --
8 the place that it first makes contact with is
9 the entry point and will be -- well, it'll have
10 sharper edges. As it exits that plate of bone,
11 it'll be beveled, or look like a crater. So
12 that's the concept of beveling that we will use
13 to determine whether or not this is an entrance
14 or an exit through the skull bone.

15 Q Thank you. Doctor, you mentioned the fact that
16 the muzzle of the gun used can, in a contact
17 gunshot wound, can sometimes be seen on the
18 skin?

19 A Correct.

20 Q I'd like to show you Exhibit 64 which, again,
21 is a copy of a photograph taken during the
22 course of the autopsy. First of all, do you
23 recognize that?

24 A Yes.

25 Q And is there an indication there of the outline

1 of the muzzle used to fire the bullet that
2 killed Michael Bell?

3 A Yes.

4 Q Would you please hold that up to the camera and
5 just point to the area where the -- is it
6 appropriate to call it a muzzle stamp?

7 A You can call it that.

8 Q Would you please let the videographer do a
9 close up, if you will, of the area around the
10 wound? And then see if -- if you could just
11 point to where the muzzle stamp is located.

12 A (Witness indicating.)

13 Q And then would you please explain what there is
14 on that photograph that allows you to identify
15 this as a muzzle stamp?

16 A This injury here is an abrasion. But as
17 opposed to, you know, a brush abrasion or a
18 scratch abrasion or something, this one has a
19 definite pattern to it. This is not a random
20 abrasion. This has characteristics to it that
21 are not -- that are, I'm sorry -- that are
22 typical of some kind of a surface leaving its
23 imprint to the surface of the skin. And you
24 can call it a muzzle stamp or a muzzle abrasion
25 or whatever you like.

1 But that's typical of the muzzle of the
2 gun being impacted by the skin as that gas that
3 I explained, as that gas passes into the wound
4 and underneath the skin, it lifts the skin and,
5 if you will, it slams it back against the
6 muzzle of the gun, which is in close proximity
7 and creates this abrasion pattern.

8 Q Okay. Now, Doctor, have you prepared for this
9 deposition other photographs that show with
10 greater clarity or closer up that muzzle stamp
11 or that muzzle abrasion?

12 A Yes.

13 Q Would you please pull those out for us? First
14 of all, would you identify Exhibit No. 77?

15 A Exhibit No. 77 is a photograph that I chose
16 showing the gunshot wound to the right side of
17 the head, which you can clearly see the right
18 ear in this location, and right above the ear
19 is the perforation. This is the hole that the
20 bullet entered through. And then you can also
21 see, around the wound, you can see clearly an
22 abrasion that is patterned as I just described.

23 Q Okay. Now, did you give us a larger close up
24 of that particular photograph in Exhibit No.
25 78?

1 A Yes. This is Exhibit 78. And again, what you
2 can see here is you can see the hole, the
3 perforation itself, and what you can see is
4 that there is some concentric abrasions that
5 are -- by concentric, I mean they kind of
6 follow the edge of the perforation itself.

7 And you can see that they are concentric
8 around the edges. There's a couple of them
9 here to the front side of the wound. And then
10 up top there are some definite pattern
11 abrasions that show some areas, some raised
12 areas, above these other areas of abrasion and
13 above the area of the perforation.

14 Q At the time of the autopsy, there were two
15 Kenosha police department officers present;
16 correct?

17 A That's correct.

18 Q And did one of them have a .45 Smith & Wesson
19 semiautomatic model 4506 that was represented
20 to you as consistent with or the same type of
21 model firearm used by the officer who shot
22 Michael Bell?

23 A Yeah, I believe so. They presented me with a
24 weapon which they said was the weapon used.

25 Q And was -- did you take a photograph of that,

1 or did someone there take a photograph of it?

2 A Yeah, we both did, actually.

3 Q Do you have a copy of that photograph?

4 A This Exhibit 79 is -- this is a close up
5 photograph that I took with a scale that shows
6 the muzzle, or the end of the gun. So you're
7 looking down the barrel of the gun.

8 Q Did you use that to create an overlay so that
9 you could demonstrate the pattern of abrasions
10 that you showed us in Exhibit 78 and the muzzle
11 of the firearm?

12 A Yeah, I thought this would -- this might be
13 helpful just to show --

14 Q And the overlay is Exhibit No. 80?

15 A Exhibit 80 is the overlay. I've just traced
16 out the landmarks of the muzzle of the gun on
17 this piece of plastic, or acetate.

18 Q Then would you please use that with Exhibit
19 No. 78 so we can demonstrate the muzzle stamp
20 or the muzzle abrasions?

21 A So now, if you look -- and by the way, I guess
22 it's important to demonstrate this, plus the
23 fact that I'm rather proud that I actually got
24 this pretty much perfect, on the side here I've
25 demonstrated with the scale that this is about

1 one centimeter. And so I put that scale off to
2 the side. And if you notice, somehow I got
3 that pretty much perfect. So you can see that
4 the scale lines up perfectly.

5 Now, I'm not -- I'm not implying that the
6 abrasion should be a perfect imprint, 'cause
7 keep in mind that the skin is -- it is
8 flexible, it does stretch. And so when I said
9 that, you know, this pattern is consistent
10 with, that's exactly what I meant. It's -- we
11 can say it's consistent with, but it's often
12 very difficult to say that it's identical.

13 But if you look at -- if we overlay these
14 two, what you see here is that the perforation
15 perfectly -- well, I'm sorry, the perforation
16 is consistent with the barrel itself. You can
17 see that -- well, I'm sorry, I've got it a
18 little off center here. There we go. You can
19 see that underneath the perforation there's a
20 semicircle down here just above the right ear
21 and this is in the same place as this round
22 area to the muzzle of the gun.

23 And then above the gun you notice that
24 there was this -- it's a vaguely rectangular or
25 raised area above the perforation, and that is

1 consistent with the top of the muzzle of the
2 gun. And then finally there's another little
3 raised area of abrasion in the center of this
4 raised area, and that -- that also is
5 consistent with the sight at the end of the
6 gun. So you see that this does create a
7 consistent pattern of abrasion with the muzzle
8 of the gun that they presented at the time of
9 the autopsy.

10 Q Thank you. Doctor, I'm going to show you what
11 we marked as Exhibit 65 and ask you whether or
12 not you identified the tracings or measurements
13 that you created at the time of the autopsy.

14 A Yes. These are --

15 Q Would you please show that to the videographer
16 and then please explain to the listeners what
17 it is that you intended to show with that.

18 A Anytime that I look at the gun, what I try to
19 do is I try to photo-document it and take
20 pictures with scales. But I also try to take a
21 measurement as closely as possible just so I
22 have something that I can put in my report.
23 And so these, these measurements that you see,
24 are just descriptions to help me, help remind
25 me when I'm doing my report what these areas

1 measure, for instance, what the diameter of
2 this little circle is, what the diameter of the
3 barrel itself is, what the heighth of the sight
4 is, things of that nature.

5 Q I see that there are two measurements there
6 that are the same. 1.1?

7 A Yes.

8 Q Please explain that.

9 A Well, that's the barrel of the gun. That's the
10 actual -- the hole to the barrel of the gun.

11 Q So the diameter of the barrel of the gun and
12 the diameter of the hole are the same?

13 A Right.

14 Q 1.1?

15 A This up here, by the way, is still a depiction
16 of the barrel of the gun. It's just that as
17 you see, there's an area to the barrel of the
18 gun where you have the barrel itself and then
19 you have the casing of the gun around it,
20 and that's what's depicted here because I
21 couldn't -- I couldn't do it in this little
22 space here, so I -- I did it over here to the
23 side.

24 Q Thank you. I'm now going to show you Exhibit
25 66. That's just a larger version of Exhibit 79

1 of the photograph showing the muzzle of the gun
2 and the measuring tape that you used at the
3 time of the photograph?

4 A That's correct.

5 Q Doctor, is it your opinion to a reasonable
6 degree of certainty in your field of forensic
7 pathology that based upon what you've just
8 described to us, the physical evidence
9 determines that the entrance wound was to the
10 right side of Michael Bell's head?

11 A Yes, that's what I believe.

12 Q Is there any doubt in your mind about that?

13 A No.

14 Q Exhibit 69 are two pages from the deposition of
15 Lieutenant Krueger, page 21, at line 12 through
16 line 17 reads as follows: "QUESTION: What
17 side of the head was Michael Bell shot in?
18 ANSWER: Left side. QUESTION: And you could
19 see that because Officer Gonzales was to your
20 left? ANSWER: Yes, sir."

21 Is that at all reconcilable with the
22 physical facts that you've described for us
23 here?

24 MR. REAK: I'll object to the form of
25 the question.

1 THE WITNESS: Well, I mean, I guess
2 if you're -- if you -- if you want me to
3 provide an opinion on what -- why there -- he
4 might have thought it was to the left side of
5 the head --

6 BY MR. DUNPHY:

7 Q No, I was asking you whether or not officer --
8 excuse me, Lieutenant Krueger's statement that
9 Michael Bell was shot in the left side of the
10 head, is that consistent with the physical
11 facts that you have found here?

12 A Oh, no, that's not consistent with what I
13 found.

14 Q Now, in addition to the entrance wound that
15 you've now described for us, there are also
16 specific characteristics that allow you to
17 determine whether or not there is a point in
18 the skull, in this case, where the bullet
19 exited Michael Bell's head; correct?

20 A That's correct.

21 Q Have you brought certain photographs with you
22 that would allow you to demonstrate for us the
23 exit wound and support your opinion that the
24 exit wound was on the left side of Michael
25 Bell's head?

1 A Yes.

2 Q Before you explain that, I'd like to show you
3 Exhibit No. 68 and ask you whether or not you
4 recognize that as a photo of the left side of
5 Michael Bell's head.

6 A Yes, that's a photo that I took of the left
7 side.

8 Q Can you please show us where the exit wound is
9 in that photograph?

10 A Back here, behind -- slightly above the left
11 ear you can see a laceration to the scalp. By
12 the way, I'm the one who shaved the hair from
13 around the wound.

14 Q Now, have you brought specific photos that
15 would allow you to explain in more detail your
16 conclusion that the exit wound was on the left
17 side of the head?

18 A Yes. And just to remind you, now we're talking
19 about this portion of the gunshot wound. We've
20 talked about the entrance to one side, now
21 we're talking about the exit to the opposite
22 side.

23 Q Again, just for the record, you were referring
24 there to Exhibit No. 76?

25 A Exhibit 76.

1 Q Thank you.

2 A And Exhibit 75 is the exhibit that I created,
3 or, well, that I put together. These are
4 autopsy photographs. And what I'm depicting
5 here is, this is the outside of the skull, in
6 and around the wound to the left side of the
7 head. So --

8 Q I'm sorry to interrupt, Doctor, but is there
9 some way you can orient us using Exhibit 68,
10 for example?

11 A Well, this is actually -- the fractures to the
12 skull were such that they freely came away.
13 And so this is actually -- I'm just
14 demonstrating the actual piece of skull bone
15 that was removed. So the orientation, you
16 know, I believe that -- I don't actually
17 remember exactly what side of this wound that
18 would represent. There are other photos that
19 we could look at to do that, but off the top of
20 my head, I don't remember which side this is.
21 But this is the outside of the skull.

22 And so as I mentioned before, you notice
23 that around this exit wound there's external
24 beveling; you can see it's kind of cratered.
25 There is the hole in the middle, but then it's

1 cratered, it's wider. So that's the outside of
2 the skull. This is the inside of the skull, so
3 this is where it went through to leave the
4 skull. And you can see that the edge is nice
5 and sharp, with no beveling.

6 The other things that you notice about
7 this skull is that there's no soot to the
8 surface of the skull; there's also no soot to
9 the soft tissues of the scalp. There was no
10 soot or searing, in other words, burning, to
11 the edges of the laceration. So this -- all of
12 these characteristics were -- I'm sorry, all of
13 these findings were characteristic of an exit
14 wound to the head.

15 Q Doctor, is it your opinion to a reasonable
16 degree of certainty in your field that the
17 bullet passed all the way through Michael
18 Bell's head?

19 A Yes, it did.

20 Q Entered on the right side, exited on the left
21 side?

22 A Yes.

23 Q Are you familiar at all with the type of
24 velocity that a bullet would have to have in
25 order to pass all the way through the head?

1 was provided to me at the autopsy, though.

2 Q Another one of your autopsy findings is Roman
3 numeral IH, and it reads as follows. Again,
4 I'm referring now to Exhibit 49. "Trajectory
5 of wound path through head (body in anatomic
6 position) right to left, front to back, and
7 slightly downwards." First of all, did I read
8 that correctly?

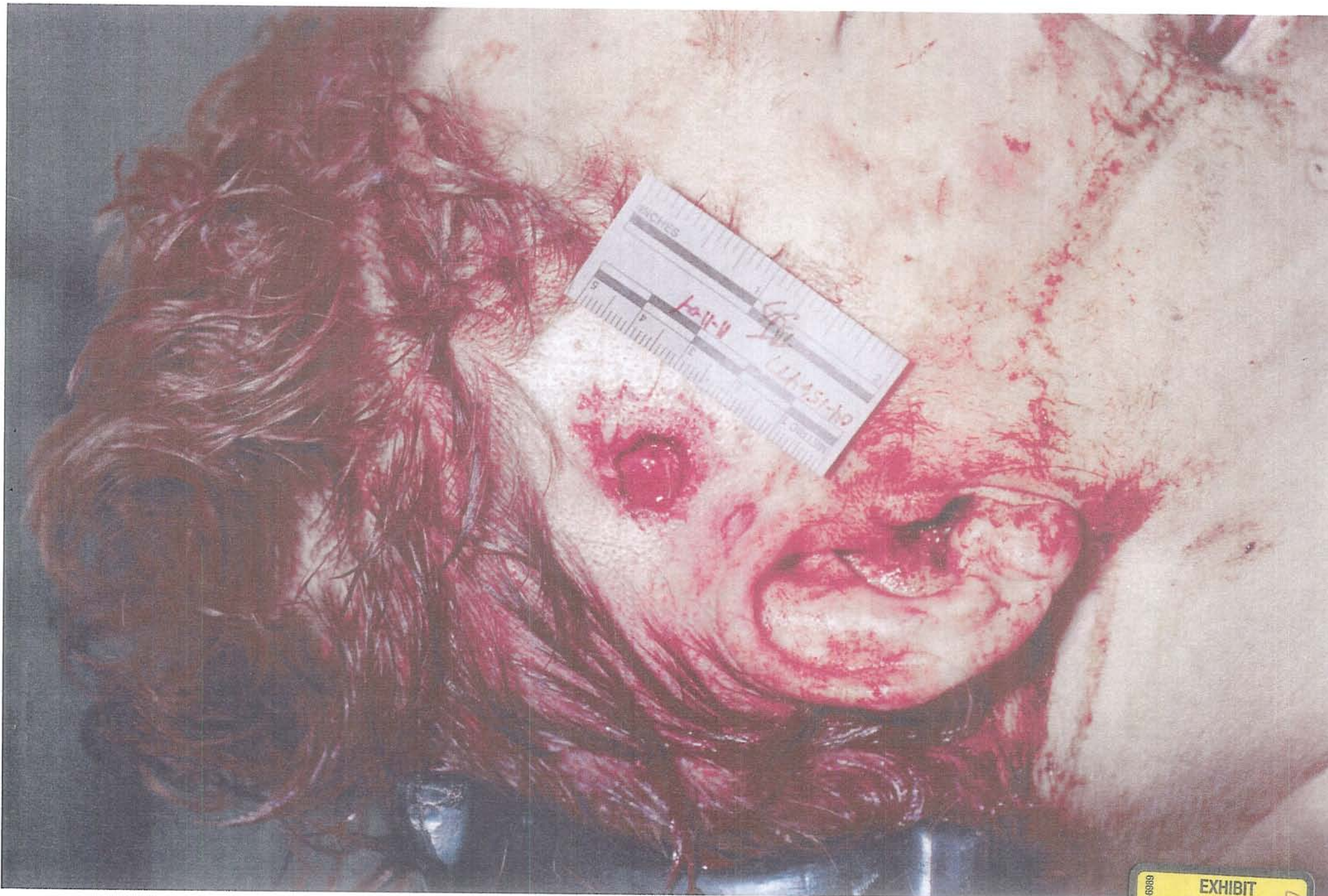
9 A That's correct.

10 Q Is that your opinion to a reasonable degree of
11 certainty in your field of forensic pathology?

12 A Yes.

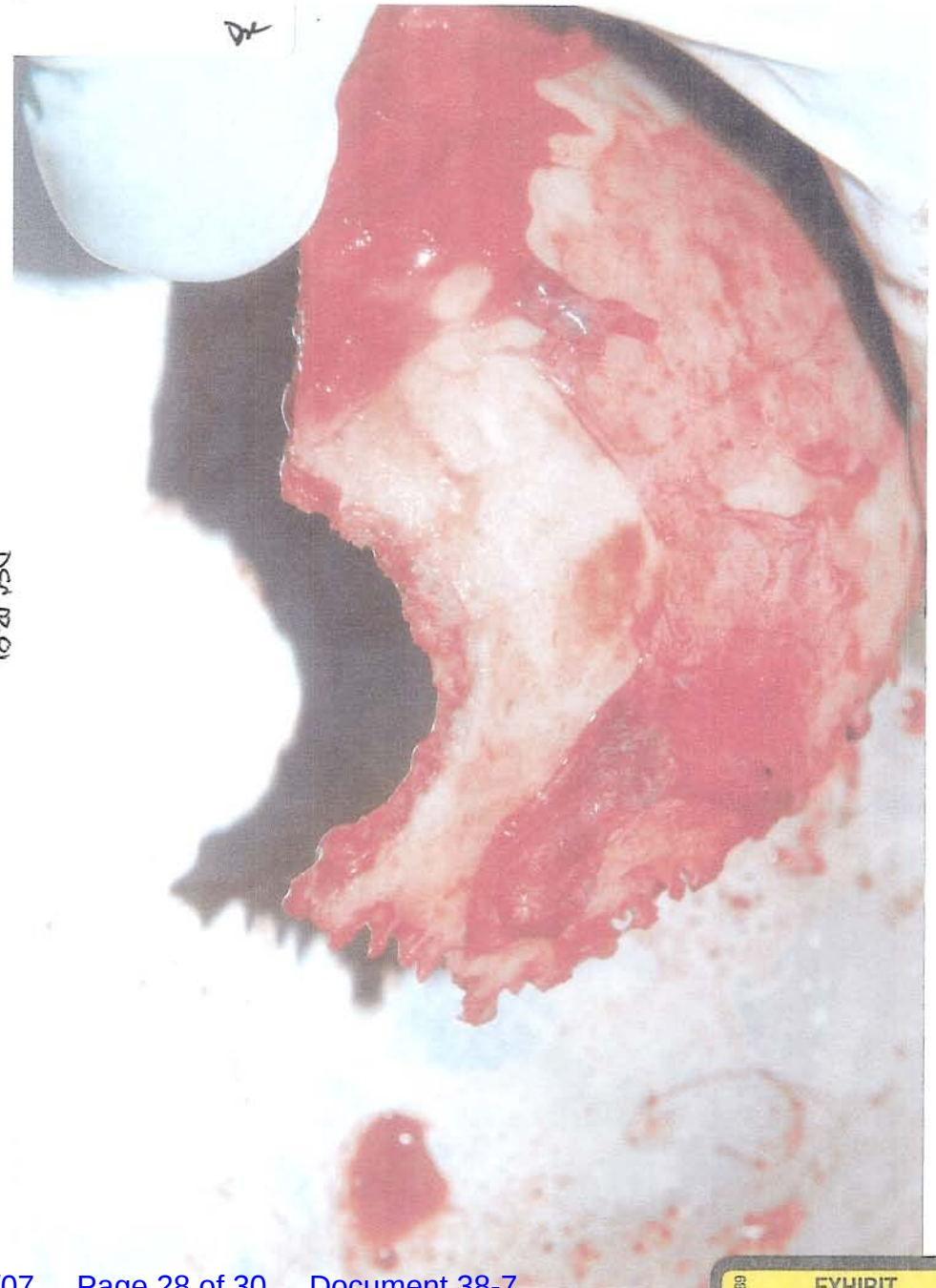
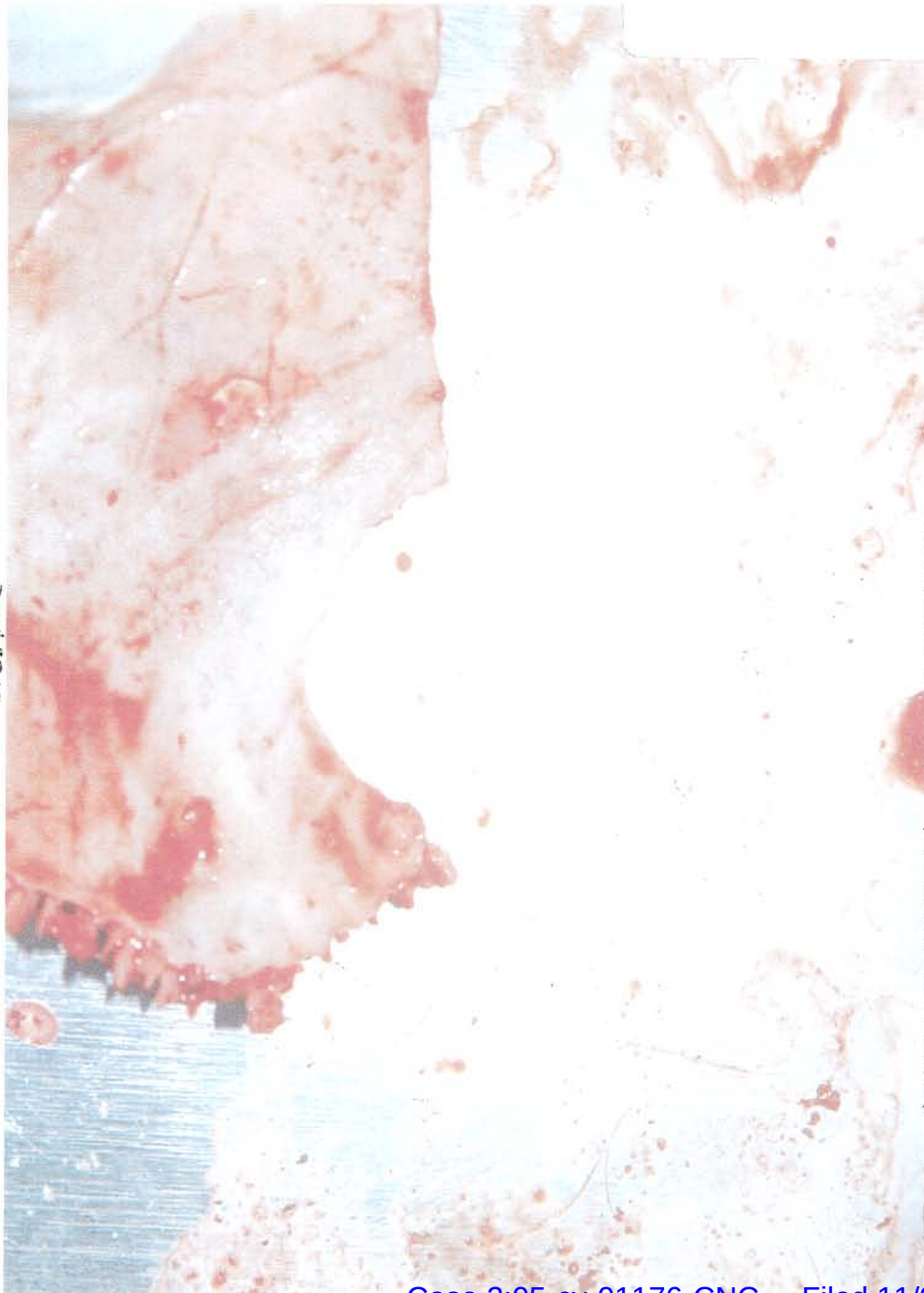
13 Q Now, if you'd humor me for just a minute, I
14 have brought what I've marked as Exhibit 67,
15 which is a Styrofoam head that's used to hold
16 wigs. And I've also brought an air gun that is
17 supposed to be a model similar to the Smith &
18 Wesson that was used here, although it's
19 clearly not the exact model by any stretch of
20 the imagination. But for illustrative
21 purposes, I'm wondering if you could show the
22 people viewing this video the approximate
23 position of the gun at the time that it was
24 fired.

25 MR. REAK: Object to the form of the

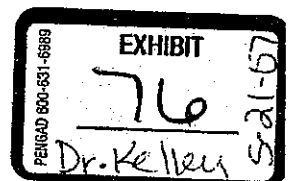
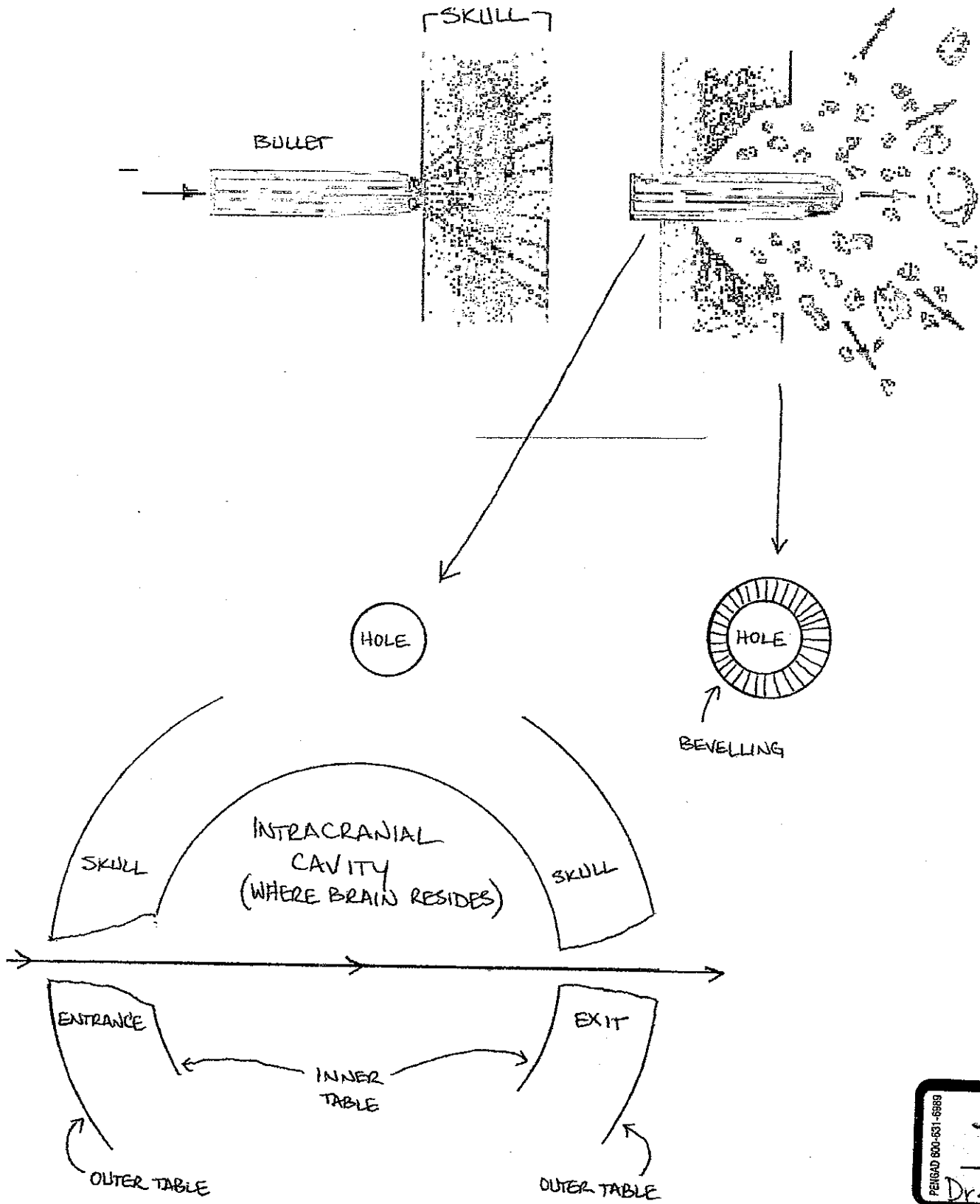








✓





Kenosha County Medical Examiner's Office
Michael Bell, Jr., DOB: 03/03/1983
TOD: 11/09/2004 0449 hours
DSC 0073

✓